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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951

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No. ~~82 Misc.~~

YVETTE J. MADSEN,

Petitioner,

v.

NINA KINSELLA, Warden of the U. S. Reformatory for Women,

Respondent.

SUPPLEMENTAL BRIEF FOR PETITIONER

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Counsel wish to call two recent matters to the attention of this Honorable Court which were not referred to in the Petition, and which warrant consideration in connection therewith.

1. Under the Uniform Code of Military Justice, 50 U.S.C. §§ 551-736, the categories of persons accompanying the Armed Forces and subject to military law have been considerably enlarged. This Honorable Court's decision on this Petition will therefore vitally affect the lives, liberty, and property of many more Americans in various parts of the world, than would have been affected under the Articles of War.

2. As predicted in the Petition and Brief in support thereof, the decisions of the lower Courts herein have already been cited by the tribunals in Germany as authority for denying our Constitutional and statutory safeguards to Americans who appear before such tribunals. As nearly as counsel have been able to ascertain, such is the practice now uniformly followed in these tribunals even though the American flag hangs in the court rooms and even though the tribunals regard themselves as wholly American institutions.

To cite two examples which have come to counsel's attention:

In the case against R. Harris, an American citizen, the accused was told on September 12, 1951, by Justice of Area 3, Robert Guthrie, that Harris had no more rights than a German in that tribunal. Harris' American lawyer reported that elementary rules of evidence were wholly disregarded and that the Harris trial was practically a farce. Although Harris was acquitted, he had been held in a German jail prior to his trial.

In the case against A. E. Barshay, an American citizen, the accused was denied the American counsel of his choice and advised on September 11, 1951, by Presiding Justice of Area 3, DeWitt White, that although Barshay could have appointed counsel, he had no right to counsel of his own choice. The same Justice also told Barshay that he had no rights under the Constitution or Laws of the United States in that tribunal.

Before the decisions of the lower courts herein, at least lip service had been given by the tribunals in Germany to our Constitutional and statutory rights of American defendants, but these rights are now openly flounted and disregarded. The tribunals in Germany have interpreted the decisions of the lower courts herein as giving them carte blanche approval and, we repeat, that unless this Honorable Court reviews the entire matter, we fear the consequences of this unwholesome situation.

CONCLUSION

For the foregoing reasons and the reasons set forth in the Petition for a Writ of Certiorari herein filed, said petition should be granted.

Respectfully submitted,

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